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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,281	09/30/2003	Jin Soo Lee	CIT/K-107B	4754
34610	7590	09/08/2006	EXAMINER	
FLESHNER & KIM, LLP P.O. BOX 221200 CHANTILLY, VA 20153			COLAN, GIOVANNA B	
			ART UNIT	PAPER NUMBER
			2162	

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/673,281

Applicant(s)

LEE ET AL.

Examiner

Giovanna Colan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-12,18,20-23 and 29-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-12,18,20-23 and 29-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/28/05,10/03/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is issued in response to applicant filed application on 09/30/2003.
2. Claims 1 – 3, 5 – 12, 18, 20 – 23, and 29 – 59 are pending.
3. The information disclosure statement (IDS) submitted 11/28/2005, 10/03/2005, 03/22/2004, and 09/30/2003. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Double Patenting

4. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

5. Claims 1, 5 – 9, and 11 – 12, 18, and 20 – 23 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 1- 3, 5 – 9, and 19 – 23 of prior U.S. Patent No. 6,643,643 B1. This is a double patenting rejection.

The following table shows the claims 1, 5 – 9, and 11 – 12, 18, and 20 – 23 in 10/673,281 that re rejected by corresponding claims 1- 3, 5 – 9, and 19 – 23 in 6,643,643 B1

Claims Comparison Table

10/673,281	6,643,643 B1
Claim 1	1
Claims 5 – 9	5 – 9
Claims 11 – 12	2 – 3
Claim 18	19
Claims 20 – 23	20 – 23

6. Claims 2 – 3, 10, and 29 – 59 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 4 – 26 of prior U.S. Patent No. 6,643,643 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because they are directed toward the same subject matter.

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.

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1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. The following table shows the claims 2 – 3, 10, and 29 – 59 in 10/673,281 that are rejected by corresponding claims 4 – 26 in 6,643,643 B1.

Claims Comparison Table

10/673,281	6,643,643 B1
Claims 29, 37, and 48	4
2 – 3, 10, 30 – 59	5 – 26

Regarding claims **2 – 3, 10, and 29 – 59** of the 10/673,281 application, these claims are directed toward the same subject matter as claims **4 – 26** of the **U.S. Patent No. 6,643,643 B1**.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1 – 3, 5, 18, 20, 29 – 31, 37 – 39, 48 – 50, and 59 are rejected under 35 U.S.C. 102(e) as being anticipated by Wang et al. (Wang hereinafter)(US Patent No. 5,802,361, filed: September 30, 1994).

Regarding Claim 1, Wang discloses a method of searching or browsing multimedia data comprising:

(a) receiving reference multimedia data with a data structure (Fig. 2A, item 201, Col. 8, lines 7 – 17, Wang) including features of said reference multimedia data (Col. 8, lines 23 – 28, Wang) and weight information of said features, wherein said data structure includes reliability information indicating a reliability of the weight information (Col. 12, lines 62 – 66, “different parameters weighted to reflect their significance to face identification”, Wang);

(b) searching for said reference multimedia data using the features and the weight information (Col. 8 and 18, lines 40 – 42 and 54 – 57; respectively, Wang);

(c) receiving user feedback on a relevance of resultant multimedia data found in (b) (Col. 8 and 9, lines 62 – 63 and 5 – 6, “any user supplied ranking of the image attribute”; respectively, Wang);

(d) measuring a similarity of the reference multimedia data to the resultant multimedia data (Col. 13, lines 18 – 20 and 29 – 31, Wang¹) and calculating a new weight information of said features using the measured value (Col. 18, lines 51 – 54, Wang²); and

(e) updating the weight information of said features in said data structure of the reference multimedia data using the new weight information (Col. 26, lines 21 – 28, “for each image is reweighted with the new ranking value”, Wang).

Regarding Claim 2, Wang discloses a method, wherein in (c), increasing weights of features which would increase a similarity between the reference multimedia data and the resultant multimedia data if the user feedback is a positive relevance information (Col. 20 and 25, lines 10 – 13 and 64 – 67; respectively, Wang).

Regarding Claim 3, Wang discloses a method, wherein in (c), increasing weights of features which would increase a dissimilarity between the reference multimedia data and the resultant multimedia data if the user feedback is a negative relevance information (Col. 26, lines 5 – 7, Wang).

¹ Wherein the step of finding the luminance difference corresponds to the step of measuring a similarity as claimed.

² Wherein the step of assigning a numerical ranking value corresponds to the step of calculating a new weight information as claimed.

Regarding Claim 5, Wang discloses a method, wherein a reliability of a weight assigned to one of said features is proportional to the amount of training by user feedback (Col. 18, lines 51 – 54, Wang).

Regarding Claim 18, Wang discloses a data structure embodied in a computer-readable medium for a multimedia data searching or browsing system comprising:

a multimedia data (Fig. 2a, item 201, Col. 8, lines 10 – 15, Wang);

a variable information representing features of the multimedia data (Col. 8, lines 7 – 8, visual attributes, Wang); and

reliability information representing a reliability of the variable information (Col. 8, lines 54 – 57, “analyzes the side information files to identify those images in the image database that are most similar to the input image attribute”, Wang).

Regarding Claim 20, Wang discloses a data structure, wherein the reliability information includes information on the number of variable information updates by a user (Col. 8, lines 62 – 64, Wang).

Regarding Claim 29, 37, and 48, Wang discloses a system of searching multimedia information, comprising:

a storage device which stores a data structure (Col. 7, lines 13 – 18, Wang)
having:

(a) feature information corresponding to at least one image feature (Col. 8, lines 23 – 28, Wang),

(b) weight information indicative of an importance of the image feature (Col. 12, lines 62 – 66, “different parameters weighted to reflect their significance to face identification”, Wang), and

(c) reliability information indicative of a reliability of the weight information (Col. 13, lines 18 – 20 and 29 – 31, Wang); and

a processor which searches said multimedia information based on the data structure (Col. 7, lines 9 – 13, Wang).

Regarding Claim 30, 38, and 49, Wang discloses a system, wherein the reliability information provides an indication of the reliability of the weight information based on user feedback (Col. 12, lines 62 – 66, “different parameters weighted to reflect their significance to face identification”, Wang).

Regarding Claim 31, 39, and 50, Wang discloses a system, wherein the reliability information includes update information corresponding to the weight information (Col. 26, lines 21 – 28, “for each image is reweighted with the new ranking value”, Wang).

Regarding Claim 59, Wang discloses a method performed by a computing device, comprising:

receiving an image (Fig. 2A, item 201, Col. 8, lines 7 – 17, Wang);

extracting characteristic attributes from the image (Col. 8, lines 25 – 28, Wang);
ranking the characteristic attributes of the image (Col. 8 and 9, lines 62 – 63 and 5 – 6, “any user supplied ranking of the image attribute”; respectively, Wang);
determining reliability of extracted characteristic attributes of the image; and
searching a database of images using the extracted characteristic attributes, the ranking of the extracted characteristic attributes, and the determined reliability of the extracted characteristic attributes (Col. 8 and 18, lines 40 – 42 and 54 – 57; respectively, Wang).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

13. Claims 6 – 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (Wang hereinafter) (US Patent No. 5,802,361, filed: September 30, 1994) in view of Kinra et al. (Kinra hereinafter) (US Patent No. 5,731,991, filed: May 3, 1996).

Regarding Claim 6, Wang discloses all the limitations as disclosed above including data structure of the reference multimedia data. However, Wang is silent with respect to authority information. On the other hand, Kinra discloses authority information which limits an update of the weight information by a user feedback (Col. 6, lines 49 – 55 and 62 – 63, Kinra). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the Kinra's teachings to the system Wang. Skilled artisan would have been motivated to do so, as suggested by Kinra (Col. 1, lines 50 – 54 and 66 – 67, Kinra), to provide expert software evaluation, and to allow a user to emphasize which criteria in various alternate software products are most important to the user. In addition, both of the references (Wang and Kinra) teach features that are directed to analogous art and they are directed to the same field of endeavor, such as, databases management systems, modifying weighted information. This close relation between both of the references highly suggests an expectation of success.

Regarding Claim 7, the combination of Wang in view of Kinra discloses a method, wherein the authority information includes a plurality of authority levels,

wherein each authority level has degree values affecting the degree of weight information update in (e) (Col. 2, lines 24 – 27, Kinra).

Regarding Claim 8, the combination of Wang in view of Kinra discloses a method, wherein a higher reliability is given to user feedback by a user with a high authority level (Col. 6, lines 53 – 59, Kinra).

Regarding Claim 9, the combination of Wang in view of Kinra discloses a method, wherein in (e), updating the weight information of said features in said data structure of the reference multimedia data depending upon the reliability information and the authority information (Col. 6, lines 57 – 59, Kinra).

Regarding Claim 10, the combination of Wang in view of Kinra discloses a method, wherein the data structure of the reference multimedia data further comprises authority information which limits an update of the weight information by a user feedback (Col. 6, lines 59 – 63, Kinra).

Regarding Claim 11, the combination of Wang in view of Kinra discloses a method, wherein the authority information includes a plurality of authority levels, wherein each authority level has degree values affecting the degree of weight information update in (e) (Col. 6, lines 62 – 63, Kinra).

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13. Claims 12, 21 – 23, 32 – 36, 40 – 47, and 51 – 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang et al. (Wang hereinafter) (US Patent No. 5,802,361, filed: September 30, 1994) in view of Kinra et al. (Kinra hereinafter) (US Patent No. 5,731,991, filed: May 3, 1996), and further in view of Rose et al. (Rose hereinafter) (US Patent No. 5,724,567, filed: April 25, 1994).

Regarding Claim 12, the combination of Wang in view of Kinra discloses all the limitations as disclosed above. However, the combination of Wang in view of Kinra is silent with respect to a password. On the other hand, Rose discloses: receiving a password from a user to determine an authority level of the user (Col. 4, lines 30 – 34, Rose). It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the Rose's teachings to the system of the combination of Wang in view of Kinra. Skilled artisan would have been motivated to do so, as suggested by Rose (Col. 3, lines 60 – 63, Rose), to identify the user as having authorized access to the system. In addition, the applied references (Wang, Kinra, and Rose) teach features that are directed to analogous art and they are directed to the same field of endeavor, such as, databases management systems, relevance, ranking data, and authorization of users. This close relation between the applied references highly suggests an expectation of success.

Regarding Claim 21, the combination of Wang in view of Kinra and further in view of Rose discloses a data structure, further comprising an authority code (Col. 4, lines 30 – 34, Rose).

Regarding Claim 22, the combination of Wang in view of Kinra and further in view of Rose discloses a data structure, wherein the reliability information is variable and includes a number of authority levels (Col. 2, lines 24 – 27, Kinra), a degree of variable information update for each authority level (Col. 2, lines 10 – 12, Kinra), and a number of variable information updates by a user of each authority level (Col. 6, lines 55 – 59, Kinra).

Regarding Claim 23, the combination of Wang in view of Kinra and further in view of Rose discloses a data structure, wherein the reliability information is fixed and includes a number of variable information updates by a user of fixed authority levels (Col. 6, lines 51 – 55, Kinra).

Regarding Claim 32, 40, and 51, the combination of Wang in view of Kinra and further in view of Rose discloses a system, wherein the update information includes:

a number of times the weight information has been updated by a user (Col. 6, lines 55 – 59, Kinra); and

authority information corresponding to the user (Col. 2, lines 24 – 27, Kinra; and Col. 4, lines 30 – 34, Rose).

Regarding Claim 33, 41, and 52, the combination of Wang in view of Kinra and further in view of Rose discloses a system, wherein the authority information includes an authority level of the user (Col. 2, lines 24 – 27, Kinra).

Regarding Claim 34, 42, and 53, the combination of Wang in view of Kinra and further in view of Rose discloses a system, wherein the authority level is based on an amount of experience of the user (Col. 6, lines 53 – 55, Kinra).

Regarding Claim 35, 43, and 54, the combination of Wang in view of Kinra and further in view of Rose discloses a system, wherein the update information provides an indication of how frequently the weight information has been updated (Col. 10, lines 49 – 54, Kinra³).

Regarding Claim 36, 44, and 55, the combination of Wang in view of Kinra and further in view of Rose discloses a system, wherein the update information provides an indication of how frequently the weight information has been updated by one or more users having at least a minimum authority level (Col. 6 and 10, lines 59 – 63 and 49 – 54; respectively, Kinra⁴).

³ Wherein the step of double clicking corresponds to the step of providing an indication as claimed.

⁴ Wherein the step of double clicking corresponds to the step of providing an indication as claimed.

Regarding Claim 45, and 56, the combination of Wang in view of Kinra and further in view of Rose discloses a system, further comprising:

an input unit which receives authority information corresponding to a user (Col. 4, lines 30 – 34, Rose); and

a comparator which compares the authority information to predetermined information (Col. 6, lines 53 – 55, Modifier, Kinra; and Col. 4, lines 30 – 34, Rose⁵), wherein the processor updates the weight information using user feedback based on a result output from the comparator (Col. 2, lines 24 – 27, Kinra).

Regarding Claim 46, and 57, the combination of Wang in view of Kinra and further in view of Rose discloses a system, wherein the predetermined information includes a password (Col. 4, lines 30 – 34, Rose).

Regarding Claim 47, and 58, the combination of Wang in view of Kinra and further in view of Rose discloses a system, wherein the comparator compares an authority level of the user to a predetermined authority level (Col. 6, lines 53 – 55, Modifier, Kinra; and Col. 4, lines 30 – 34, Rose⁶), and wherein the processor updates the weight information only if the authority level of the user is determined to be equal to or higher than the predetermined authority level based on an output from the comparator (Col. 2, lines 24 – 27, Kinra).

⁵ Wherein the user's identity corresponds to the predetermined information claimed.

Prior Art Made Of Record

1. Wang et al. (US Patent No. 5,802,361, filed: September 30, 1994) discloses a method and system for searching graphic images and videos.
2. Kinra et al. (US Patent No. 5,731,991, filed: May 3, 1996) discloses a software product evaluation.
3. Rose et al. (US Patent No. 5,724,567, filed: April 25, 1994) discloses a system for directing relevance-ranked data objects to computer users.

⁶ Wherein the user's identity corresponds to the predetermined information claimed.


Points Of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Giovanna Colan whose telephone number is (571) 272-2752. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Giovanna Colan
Examiner
Art Unit 2162
August 29, 2006


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